

5/8/03

To: Local Boundary Commission Staff
550 West 7th Ave. Suite 1770
Anchorage, Alaska 99501-3510

Fm: Mr. Kenneth L. Klawunder, petitioner.
P.O. Box 156
Gustavus, Alaska 99826

Re: Response to the letter from the Hoonah Indian Association

Dear Local Boundary Commission Staff,

The citizens of Gustavus, in filing a petition to become a second class city, do recognize the Hoonah Indian Association as a tribal government and look forward to working with them in the future on all issues of mutual concern.

We too see the Glacier Bay National Park and Preserve as a gem to be protected and preserved for all to enjoy now and in the future. The residents of Gustavus also appreciate the ancestral bond the Huna Tlinget people feel for the area and their desire to preserve that heritage.

The Petition filed by the citizens of Gustavus is not intended to violate the rights and privileges afforded all citizens of this great land. We only wish to accept our responsibilities as a new city and to perform the functions of all other second class cities within Alaska. The boundaries applied for in the present petition are the same boundaries which were set and allowed by the Local Boundary Commission in its' Statement of Decision dated June 6th, 1997.

Bartlett Cove is not and should not be a city separate from Gustavus. The two areas and their citizens are inextricably linked socially, economically and politically. The road that links Bartlett Cove with Gustavus is the route used daily for citizens to travel to work, to school, the post office, stores, the public library, churches and to attend the community functions we enjoy. This is the essence of a community, and we are pleased to be a part of it.

Glacier Bay National Park and Preserve, being a national park, belongs to all the citizens of the United States. The National Park Service has been delegated the responsibility to establish rules and regulations for us all to follow as we seek enjoyment from this national treasure. The folks of Gustavus have no intention of violating the rules or laws that govern this park nor could we. Development within the park is governed by the Legislature of the United States. The city of Gustavus would have no authority over the opening of water corridors, future vessel management plans, or water front development within Park waters.

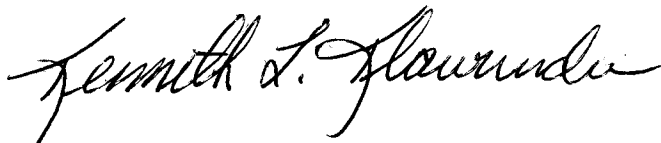
The newly proposed City of Gustavus wishes to include the infrastructure which is within Bartlett Cove because this infrastructure is a mere extension of the road system that exists and will include the public use dock and the fuel facility. The road system that links Glacier Bay with Gustavus is an integral and essential part of this community. Freight necessary for all economic ventures is funneled across the Gustavus Dock, in Icy Passage and over the existing road system. Gravel trucks, cement trucks and large scale construction material for the Park come over this avenue.

The proposed city of Gustavus has no jurisdiction over the rules and policies that exist to manage the Bartlett Cove facilities but will retain the right to tax certain commercial activities which take place from them. The businesses that conduct their activities within any city government boundary are subject to the taxation of that city. The business owners and operators of Gustavus utilize the services that are provided within the city and therefore are subject to the appropriate taxes.

The Community of Gustavus and the Glacier Bay National Park Service have worked closely in the past and we sincerely hope the Hoonah Indian Association will continue to be a part of this team to protect and preserve the natural beauty of our area. The proposed city of Gustavus wants only to be afforded the rights of all cities, to provide tax monies for the services we all, as citizens of one community, enjoy.

Thank you for your letter of concern.

Sincerely,

A handwritten signature in cursive script, reading "Kenneth L. Klawunder". The signature is written in dark ink and is positioned above the printed name.

Kenneth L. Klawunder, petitioner

5/8/03

To: Local Boundary Commission Staff
550 West 7th Avenue, Suite 1770
Anchorage, Alaska 99501-3510
Fm: Mr. Kenneth L. Klawunder – Petitioner
P.O. Box 156
Gustavus, Alaska 99826

Re: Explanation of Gustavus community involvement in the response process.

Dear Local Boundary Commission Staff,

The purpose of this letter is to acknowledge the letters of support from Mr. Craig Wilson and Mr. Paul Berry and to thank them for their work and continued support of the process to become a second class city. This letter is also to explain the process used by the petitioner to gain insight into the concerns and reactions of members of the Gustavus Community to letter received in response to the petition.

On May 12th Ms. Shana Crondahl and the petitioner had a cordial meeting with the Superintendent of Glacier Bay National Park and Preserve, Ms. Tomie Lee, to discuss our differing opinions and needs for a specific boundary in Bartlett cove for the newly proposed city.

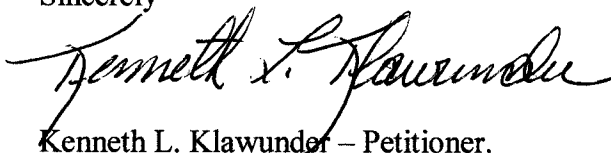
The petitioner meet on Tuesday evening the 13th of May, 2003, in the Gustavus Community Association building with all interested members of the community to discuss the letters of support and opposition to the petition. All 5 letters received by the petitioner in response to the Gustavus Petition were read aloud, each followed by a prepared letter of response from the petitioner. After each letter was read, followed by the petitioner's response, the community members were urged to provide input prior to the final draft.

Please find attached the response letters from the petitioner. They are being sent both electronically and in hard copy to the Local Boundary Commission.

We, the community members of Gustavus, sincerely hope these letters of response are appropriate and will calm the fears and answer the concerns of those who oppose in any way the formation of Gustavus as a second class city. We also wish to thank Mr. Dan Bockhorst and the entire LBC staff for their generous assistance in the entire process.

Please find the enclosed agenda for the May 13th meeting conducted by the petitioner at the GCA building. Results of that meeting were recorded and are available.

Sincerely

A handwritten signature in cursive script, appearing to read "Kenneth L. Klawunder".

Kenneth L. Klawunder – Petitioner.

Meeting agenda.

This meeting is held as an avenue in which Gustavus Community member may provide input into the response process. There were five letters of response to the Gustavus Petition to become a second class city. Citizen input is essential to provide for the maximum effectiveness of this process.

Prepared prior to the meeting:

1. All draft response letters written by the petitioner.
2. All petition reaction letters available for reading.
3. Letter to the LBC explaining the process, written.
4. Prepare meeting agenda.

Agenda items:

- a. Open with purpose of the meeting.
- b. Rules for reaction to the letters. (No personal attacks.)
- c. Procedure:
 - i. Diane reads one letter.
 - ii. Ken reads a prepared response to that letter.
 - iii. Recorder takes notes of response from community members. (2 minute time limit.)

Each of the 5 letters in read with response to follow and community input as stated above. Letter from the State Assessor will also be read.

- d. Short discussion of future procedures by the LBC and the petitioner.
 - i. Election options
 1. Oct. 7th, too early for the completed process.
 2. August election of 2004. (Possibly too late.)
 3. Mail in election conducted by the State prior to August 2004.
- e. Possible direction and options for those supporting the petition.
 - i. Letter of support for the acceptance of Gustavus as a second class city, sent to all registered voters.
 - ii. May ask GCA for support to finance this support letter.
 - iii. May ask for donations for stamps and letter duplication. \$280
- f. Conclusion- brief review of the meeting for clarification.
- g. Adjourn the meeting.

Letters will be finalized with the input from the community and then sent to the LBC.

Ken Klawunder - petitioner

05/3/03

To: Local Boundary Commission Staff
550 West 7th Avenue, Suite 1770
Anchorage, Alaska 99501-3510

Fm: Kenneth L. Klawunder – Petitioner
P.O. Box 156
Gustavus, Alaska 99826

Re: Response to the Honorable Senator, Mr. Gary Wilken

Dear Commission Staff,

The residents of Gustavus desire to become a Second Class City for the reasons stated within the petition. This community can no longer depend upon volunteers to conduct and perform all the functions necessary to provide the desired services. It is true that by law, a Second Class City does not have the powers to establish its own educational system, nor would the State of Alaska permit this. The expense incurred by the State in the establishment of a new school system for just 45 students would be financially prohibitive and probably would not be permitted by the Commissioner of Education for those very same reasons.

Gustavus is not alone in its desires to become a Second Class City. There are 113 other communities around the State that have opted for this form of government. Seventy eight of those communities are presently within the Unorganized Borough of Alaska. I am sure the Local Boundary Commission staff has carefully read our Second Class City petition and has recognized the need we see as being essential to becoming a viable member city within the Icy Strait area.

As you are aware, the City of Hoonah has begun the process to establish a Glacier Bay Borough which would encompass the communities of Hoonah, Pelican, Tenakee, Elfin Cove, and Gustavus. Gustavus would be the only community of any significant size to be without city status or governmental clout during the establishment of the Glacier Bay Borough. Hoonah and Pelican are both First Class Cities established in the 1940's while Tenakee Springs is a Second Class City. Only Elfin Cove and Gustavus are presently without governmental representation. To arbitrarily deny Gustavus the right to govern itself appears to be a clear violation of our rights under the law. The decision to permit Gustavus to become a Second Class City should be completely separate from any decisions regarding the formation of a Borough, whether initiated by Hoonah or the State of Alaska. The residents of Gustavus have no problem with the obligation to support our school but it is not appropriate to deny this community the ability to attain city status just because we are part of the Unorganized Borough. Senator Wilken may be correct with the fact that 87% of Alaskans are presently supporting State schools financially; however, most of those 87% are members of an established large city while only 3% of Alaskans live in communities without city status. The 87% of Alaskans who reside within an Organized Borough have representation in their local government, are provided services deemed necessary by the citizenry and support schools.

In closing, I must conclude that Senator Wilken has somehow confused the powers of a Second Class City with the powers of a Borough. If Glacier Bay Borough is formed, Gustavus will be financially supporting the schools within that newly formed Borough, but to somehow single out Gustavus by asking the LBC to deny this one community the opportunity to become a Second Class City while affording this option to all other communities of the State, is not right.

The Alaska State Legislature, as the Assembly for the Unorganized Borough, has broad powers and could enact taxation enabling all communities to financially support their schools if that is the desire of the Legislature. Gustavus should not be the only community denied the right to organize as a city and to become an equal player both economically and politically within the State of Alaska.

Thank you so much for the opportunity to respond to this letter.

Sincerely

A handwritten signature in cursive script, reading "Kenneth L. Klawunder". The signature is written in dark ink and is positioned above the printed name.

Kenneth L. Klawunder (Petitioner)

5/12/03

To: Local Boundary Commission Staff
550 West 7th Avenue, Suite 1770
Anchorage, Alaska 99501-3510

5/12/03

Fm: Mr. Kenneth L. Klawunder
P.O. Box 156
Gustavus, Alaska 99826

Re: A letter in response to the concerns expressed by Ms. Tomie Lee, Glacier Bay Park Supt.

Dear Local Boundary Commission Staff,
This letter is in response to the concerns expressed by Glacier Bay Park Superintendent, Ms. Tomie Lee.

The residents of the community of Gustavus have submitted a petition to incorporate as a second class city and do wish to acknowledge the support that has been given us by park personnel. The boundaries of the proposed city are exactly the same as those expressed and accepted by the Local Boundary Commission during the last petition attempt to incorporate in 1997. In fact, Jim Brady, then Superintendent of Glacier Bay, supported both the petition to incorporate and the proposed and accepted boundary. (See attached letter to LBC from J. M. Brady dated January, 1997)

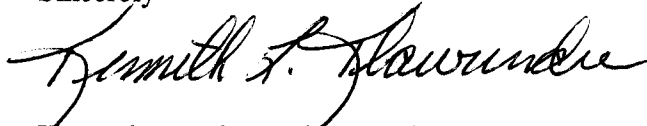
The petitioner and the residents of Gustavus realize that the Legislature of the United States may change policy and regulations concerning the Glacier Bay National Park but we as citizens have no authority to affect policy within the park waters and wish not to have that authority. Park management, policy making and enforcement of rules is and always will be the responsibility of the Park Superintendent and staff. The future city of Gustavus does, however, need the authority to tax commercial ventures within its boundary. Several commercial businesses use that public use facility to depart with guests and clients on day and extended trips. When the boundary of the future city of Gustavus is as the petitioner originally expressed it within the petition, the rights to tax business activities is clearly understood and acceptable. There is no clear understanding of the law which governs the legal right of a city to enforce taxing regulations on infrastructure which is built out over the waters when the boundary of the city is the "mean high tide mark". The citizens of Gustavus have no ulterior motive other than to assure the rights of the future city to have the authority to implement taxing provisions as established by the future city council.

All residents of the Gustavus and Glacier Bay area enjoy the services provided within the community of Gustavus at the present time. Those same residents will continue to enjoy future services through the workings of the new city. It is essential that a firm understanding be established between the Glacier Bay National Park Administration and the petitioner regarding the legal taxing powers for activities which involve the existing facilities in Bartlett Cove.

Mr. Steve VanSant, State Assessor, cautioned the petitioner, saying that the use of the term, "mean high water" as a boundary for the city is ambiguous and that even if the Park Superintendent declares that all concessionaires will pay a city tax, that declaration is not enforceable if the public use dock is found to be outside the city's boundary. He also states that there will be less hassle for the city in regard to a sales tax for activities that occur in this area, if it is within the city boundary. If it is outside the city limits, it could make it more difficult to try and levy a sales tax. Therefore, it is the determination of the petitioner and the Gustavus citizens attending the Governance Committee meeting on May 13th that the boundaries for the proposed city should remain the same as those stated within the petition. (For Mr. VanSant's full comment, please see attached hard copy of his e-mail.)

We look forward to working with the Park Administration both now and after the formation of the proposed City of Gustavus. We thank Ms. Tomie Lee for her input into this process and sincerely hope this minor difference of opinion is easily resolved.

Sincerely

A handwritten signature in cursive script, reading "Kenneth L. Klawunder". The signature is written in dark ink and is positioned above the printed name.

Kenneth L. Klawunder – Petitioner



INaEPLY'ErERTO

L1425

January 3,

United States Department of the Interior

NATIONAL PARK SERVICE

Glacier Bay National Park and Preserve P.O. Box 140 Gustavus, Alaska 99826-0140
1997

Mr. Dan Bockhorst
Local Boundary Commission Staff
Department of Community and Regional Affairs 333 West 4th Avenue,
Suite 220 Anchorage, . AK 99501-2341

Dear Mr. Bockhorst:

The National Park Service, Glacier Bay National Park and Preserve, supports the proposed boundaries for the City of Gustavus as outlined by the petitioners in their letter responding to DCRA's provisional report.

Additionally, we support the proposed petition to incorporate the City of Gustavus. We see this as an opportunity to facilitate a more effective partnership with our local community.

Sincerely,

J.M. Brady
Superintendent

cc:~Chris Smith, Petitioners Representative Alaska Senator Jerry Mackie
Alaska Representative Al Kookesh
Peter McKay, Dept of Community & Regional Affairs

Diane Klawunder

From: "Steve VanSant" <steve_vansant@dced.state.ak.us>
To: "Diane Klawunder" <kdklawunder@gustavus.ak.us>
Cc: "Dan R Bockhorst" <dan_bockhorst@dced.state.ak.us>
Sent: Friday, May 09, 2003 8:02 AM
Attach: steve_vansant.vcf
Subject: Re: Gustavus Second Class City petition

Ken,

I did talk with Dan about this and this is basically what I told him. Regardless of what the Superintendent may say, the park service does not have the authority to levy a sales tax. They can require that anyone who leases from them to pay any taxes due, however, they do not have the authority to require someone to pay a tax that may not be due.

The city will have a hard time attempting to tax any activity outside its boundaries, although you may be able to show sufficient nexus (presence) that a tax may attach. However, it seems to me that there is no question if that area is within the city boundaries to start with. Therefore, I would maintain my stand that the boundaries would include the area. There may be a good reason why the park service does not want to have it included within the city boundaries, and if there is, that should be considered.

The bottom line is that there certainly will be less hassle for the city, in regards to a sales tax for activities which occur in this area, if it is within the city boundaries. If it is outside the city limits, it could make it more difficult to try and levy a sales tax..

I hope this is of some help to you and I wish you luck
Steve

Diane Klawunder wrote:

Steve, Although I called you on the phone I thought I'd e-mail the questions so I had a written answer to work from. Also I am going to Pelican and won't be back until Monday. I asked if Bartlett Cove Dock be considered in the mean high tide that the Park Service Superintendent wants our city boundary changed to. We are using the same boundary that the LBC allotted us on the 1997 petition try for 2nd Class status. The previous Park superintendent was in favor of these boundaries, now this one wants us to have no control over any water areas of Bartlett Cove. We are concerned that we may not be able to collect sales tax from the Park Concessionaire on boat day trips Up Bay if they originate on the Bartlett Cove Dock and that dock is not in the Gustavus City Boundary. Should we be concern? The Park Service says they will stipulate that all concessionaire's operating within the Park will pay city sales and bed tax. This seems like the Park Service is getting involved in the process of taxation that should be left to the City Council of Gustavus. Also, this superintendent may say they will inforce the policy of making sure Park Concessionaire's pay appropriate taxes, but will the next superintendent follow through on this policy? Also, if the Bartlett Cove dock is not in the city boundary local charter operators could refuse to pay the 2% sales tax if they are operating off of a dock outside the city boundary. Thanks so much for your consideration of these matters. I will be back here in Gustavus on Monday so feel free to leave us a message on the answering machine. I'll call you if I have questions. thanks so much, Ken